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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,034	02/23/2004	Rudy Jan Maria Pellens	081468-0308407	3791
909 7590 06/30/2009 PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102				
EXAMINER				
QUINTO, KEVIN V				
ART UNIT		PAPER NUMBER		
2826				
MAIL DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/783,034

**Applicant(s)**

PELLENS, RUDY JAN MARIA

**Examiner**

Kevin Quinto

**Art Unit**

2826

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-5, 7, 8, 10-13, 16-19, 23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5, 13, 16-19, 23 and 24 is/are allowed.
- 6) ☒ Claim(s) 7, 8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. The indicated allowability of claims 7, 8, 10, 11, and 12 is withdrawn in view of the newly discovered reference(s) to Hallock et al. (United States Patent Application Publication No. US 2002/0151156 A1). Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7, 8, 10, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,930,610) in view of Hallock et al. (United States Patent Application Publication No. US 2002/0151156 A1).

4. In reference to claim 7, Lee (USPN 5,930,610) discloses a device manufacturing method which meets the claim. Figures 1a-1e illustrate a substrate (1) with a first layer of electromagnetic radiation sensitive material (2) provided on it. A second layer of electromagnetic radiation sensitive material (3) is provided on the first layer of radiation sensitive material (32). The first (2) and second (3) layers of electromagnetic radiation sensitive material have a same tonality. The first layer of radiation sensitive material (2)

is of a different material than the second layer of radiation sensitive material (3). Figure 1b shows that a beam of electromagnetic radiation is provided using an illumination system. The beam of radiation is imparted with a desired pattern in its cross-section by employing a patterning device and projected onto a target portion of the substrate (1) to expose both the first (2) and second (3) layers of radiation sensitive material. Lee does not explicitly state that the first layer of radiation sensitive material (2) has a dose size of at least approximately 1.5 times the magnitude of the dose size of the second layer of radiation sensitive material (3). However it is clear that the first layer of radiation sensitive material (2) has a dose size which is greater than that of the dose size of the second layer of radiation sensitive material (3) since the exposed portion of the second layer of radiation sensitive material (3) is greater than the exposed portion of the first layer of radiation sensitive material (2) after a single exposure step (see figure 1c). The examiner would like to note:

"[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

Therefore this limitation is not patentably distinguishable over the Lee reference. Lee does not disclose the use of bulky-acetal polymers as the first and second materials. However Hallock et al. (United States Patent Application Publication No. US 2002/0151156 A1, hereinafter referred to as the "Hallock" reference) discloses that the use of such materials as a radiation sensitive material is well known in the semiconductor device art (p. 2, paragraph 15). The applicant is reminded in this regard that it has been held that a mere selection of known materials generally understood to be suitable to make a device, the selection of the particular material being on the basis

of suitability for the intended use, would be entirely obvious. See *In re Leshin* 227 F.2d 197, 125 USPQ 416 (CCPA 1960) and also *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945). Therefore this limitation is not patentable over Lee and Hallock.

5. With regard to claim 8, the first and second materials have different solvents.
6. With regard to claim 10, the first (2) and second (3) layers are positive radiation sensitive.
7. In reference to claim 11, the first (2) and second (3) layers are developed to remove portions which are exposed.
8. With regard to claim 12, the removed portion of the first layer (2) is smaller than the removed portion of the second layer (3).

***Allowable Subject Matter***

9. Claims 2-5, 23, and 24 are allowed. Claims 13 and 16-19 were allowed in the previous Office action.
10. The following is a statement of reasons for the indication of allowable subject matter: claims 2-5, 23, and 24 have been amended to depend upon previously allowed claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Quinto whose telephone number is (571) 272-1920. The examiner can normally be reached on M-F 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sue Purvis can be reached on (571) 272-1236. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin Quinto/  
Examiner, Art Unit 2826

/Sue A. Purvis/  
Supervisory Patent Examiner, Art Unit 2826